

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendment and remarks. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

The title was objected to because it was not descriptive. The replacement title follows the Examiner's suggestion. Accordingly, the Examiner is respectfully requested to withdraw his objection.

Claims 1-25 are pending in this application. Claims 1 and 15 are independent. Claims 1-2, 5-12, 14-16, 18-25 are hereby amended. No new matter has been introduced. Claims 1 and 24 were objected to because of informalities, which are corrected in the present amendment. Accordingly, the Examiner is respectfully requested to withdraw his objections.

It is submitted that these claims, as originally presented, were in full compliance with the requirements 35 U.S.C. §112. Changes to claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which the Applicants are entitled.

II. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-13 and 15-24 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over WO 00/28436 to Koninklijke Philips Electronics (hereinafter, merely "Philips") in view of Pronto Universal [©2000 Philips Consumer Electronics] (hereinafter,

merely “Pronto”). Claims 14 and 25 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Philips in view of Pronto as applied to claims 1 and 15, and further in view of U.S. Patent No. 6,781,518 to Hayes et al.

Applicants respectfully submit that Pronto is not a valid prior art reference within the meaning of 35 U.S.C. §103.

The specific publication date of Pronto, the cited prior art reference, is not clear from its face. M.P.E.P. §706.02(a) states that “the examiner must determine the issue or publication date of the reference so that a proper comparison between the application and reference dates can be made.” M.P.E.P. §2128(A) further states:

Prior art disclosures on the Internet or on an online database are considered to be publicly available as of the date the item was publicly posted. **If the publication does not include a publication date (or retrieval date), it cannot be relied upon as prior art** under 35 U.S.C. 102(a) or (b), although it may be relied upon to provide evidence regarding the state of the art. (Emphasis added).

The cited publication bears only the publication year (2000), and does not establish a publication date for purposes of prior art. Presumably, the Pronto reference was published on December 31, 2000. However, Applicants’ foreign priority date is June 30, 2000. Applicants are respectfully attaching a verified English translation of the foreign priority document.

Applicants respectfully submit that since the Pronto brochure used by the Examiner comes from Phillip’s website and does not include a publication date or a retrieval date, it cannot be relied upon as prior art.

Additionally, if Pronto is being used as a printed publication, Applicants respectfully submit that it is *not enabling*. Applicants submit that Pronto fails to teach or

disclose, to someone of ordinary skill in the art, how to construct the *Pronto Universal*. (See M.P.E.P. §2121) On the other hand, if Pronto is being used as evidence of *prior use*, it fails to provide any proof of the date when the consumer device actually reached the public in the United States. With a copyright date of 2000, it is likely that the Pronto did not reach the consumer until sometime late in 2000 or even sometime in 2001, which is *after* Applicants' foreign priority date. (See M.P.E.P. §2132)

Applicants respectfully submit that since Pronto is not available as prior art, all rejections based upon Pronto in the above-noted Office Action are overcome.

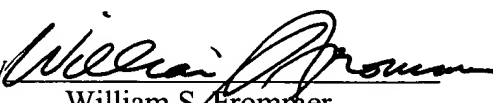
Therefore, Applicants respectfully submit that all claims are in condition for allowance.

CONCLUSION

Applicants respectfully request early passage to issue of the present application.

Please charge any fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,
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